

Rhode Island Mercury Advisory Working Group
Minutes from Thursday, September 26, 2002
9:30 – 11:30 am

Attendees: Listed at end of meeting minutes.

Agenda:

- Welcome/Introductions
- Review of Meeting Minutes (8/23)
- Final discussion of draft regulations and timeframe for adoption (public hearing deadlines).

Meeting Minutes from August 23, 2002:

Minutes from 8/23/02 adopted without change.

Introductions/Welcome:

- Called to order by Jan H. Reitsma, Director DEM at approximately 9:40 a.m.
- Introductions.

Before discussion began, Director Reitsma passed around a copy of a catalog of products distributed by Rhode Island Novelty (based out of Johnston, RI) - Wholesale Fall Catalog 2002. A number of DEM staff received copies of this catalog at their home addresses in previous weeks.

Discussion: Rule Making Process in RI & Deadlines

Process/Deadlines for Filing Regulations:

- Elizabeth Stone provided a short overview of upcoming deadlines associated with promulgating the regulations by January 1, 2003. Ideally, the regulations should go out to public notice by the end of October, with a public hearing scheduled for late November. This would allow the Department time to reply to comments heard at the public hearing and written comments submitted to the Department. The regulations would need to be filed with the RI Secretary of State's Office by the end of December.
- Director Reitsma explained that DEM's Office of Waste Management, Legal Services and Compliance & Inspection would also be asked to review the final draft regulations.
- It was asked what the Department plans to do, through regulation, about the procurement requirement (in 23-24.9-15) and disclosure requirement for formulated mercury-added products (23-24.9-11). It was agreed that a subgroup of the advisory working group should meet between now and the next scheduled meeting to discuss procurement procedures - specifically: 1) how to implement the requirements as detailed

in the law; and 2) whether or not DEM needs to incorporate a new section on procurement in the draft regulations being reviewed by the advisory group.

- It was determined that another Advisory Working Group meeting would be needed to further discuss the issue of procurement and disclosure for healthcare facilities portion of the statute. Director Reitsma committed to further explore these topics before the next meeting - would include outreach/discussions with Dept. of Administration and Department of Health.

Discussion/Comments by Working Group Members on Latest Draft of Regulations:

1) Elizabeth Stone and Bev Migliore (RI DEM) explained the changes that were incorporated into the regulations since the working group's previous 2 meetings:

- Included the phrase "mercury-added" into key portions of the regulations to ensure they only affected products to which mercury was intentionally introduced. (Additional, similar changes were suggested later in the meeting).
- Included a list of criteria for assistance in determining which products will be deemed "novelty" products. Discussion was heard on this topic.
- Added a definition of "IMERC" and "fluorescent lamps". Amended the definition of "senior management official".
- Added a new section to the phase-out regulations which describes the criteria the Department will use in determining whether or not a request for an exemption will be granted. Language is very similar to what's found in the statute (RIGL § 23-24.9-7).
- Included minor changes to the section on elemental mercury (and corresponding form included in Appendix) regarding the applicability of this section to manufacturing facilities.
- Included minor changes in the collection regulations (Section 10) - specifically, a new section (2) (8) was added so as to allow manufacturers to explain or expand upon special conditions which would apply to their proposed collection process/system.
- The advisory working group was informed that the entire numbering system in the regulations will need to be changed to conform with rule-making standards set by the Department.

2) It was suggested that the "Purpose" section of the regulations be amended to include language about the public health impacts of mercury exposure. Director Reitsma indicated that this suggestion would be taken into consideration.

3) Additional comments were heard about the definition of product category (Definition #22). Concerns were expressed that the current definition of "product category" misses the whole reason for allowing companies to report by product category. It was suggested that the definition be shortened to read as follows: "Product category means a group of mercury added products that have the same purpose for having the mercury in each unit." Director Reitsma indicated that these suggestions would be taken into consideration.

- 4) Per comments from group members, agreed to amend Section 6 (Restrictions on Mercury-Added Novelties), (2) (c) relative to the RIGL reference for the Hazardous Waste Management Act.
- 5) Agreed to add a reference to medical waste in Section 11 (3) (i) (3) - Limitations on Elemental Mercury,
- 6) Director Reitsma informed the members of the working group that DEM's Office of Legal Services would need to be consulted with in order to develop appropriate language about confidential information. The RI Access to Public Records Act will apply.
- 7) Discussion was heard about the practical implications of the bill for retailers who sell mercury-added products, and the need for outreach efforts to retailers who sell these types of products. Group members commented about the need for additional outreach to consumers and manufacturers about the impact(s) of the law.
- 8) It was asked what the Department's intentions are for the adoption of product labeling regulations (legislative deadline for labeling is January 1, 2004). It was explained that these regulations would be adopted sometime next year, and the Department would look to Vermont's experience with their labeling regulations. (Copies of VT's labeling requirements were distributed to members of the group).
- 9) Director Reitsma addressed the issue of fees. He indicated that at this point in time it was debatable whether or not the Department had the authority to impose fees.

Date of Next Meeting:

The next meeting was set for Thursday, October 24, 2002 @ 9:30 (same location - RI DEM, 235 Promenade Street). Room to be determined.

Meeting minutes and other materials will be forward in coming weeks.

Adjournment:

Co-chair Jan Reitsma adjourned the meeting at approximately 11:15 am.

Recorded by: Elizabeth S. Stone, RI DEM

Meeting Attendees as indicated on sign-in sheet (9/26/02):

Beverly Migliore
John Hogan
Elizabeth Stone
Eugenia Marks
Jan Reitsma
Jason Martiesian
Joan Mylis
Paul D'Adamo
Rene Turcotte
Ric Erdheim
Rick Rosati
Sheila Dormody
Terry Gray
Thomas Brandt
Tom Uva
Alicia Karpick
Townsend Goddard
Terry Tierney
Jaz Deol
Derek Guest